

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:04CR151
)	
vs.)	CORRECTED¹
)	ORDER
STACEY W. NIELSEN,)	
)	
Defendant.)	

Defendant Stacey W. Nielsen (Nieslen) appeared before the court on December 26, 2007, on the Petition for Warrant or Summons for Offender Under Supervision (Report) (Filing No. 94). Nieslen was represented by John D. McDermott and the United States was represented by Assistant U.S. Attorney Frederick D. Franklin. Through his counsel, Nieslen waived his right to a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Report alleges probable cause and that Nieslen should be held to answer for a final dispositional hearing before Judge Laurie Smith Camp.

Through counsel, Nieslen argued for release pending the dispositional hearing. He argued he was released on bond for the state charges and was employed. Further he agreed to be subject to electronic monitoring. Since it is Nieslen's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Nieslen has failed to carry his burden. While there could be conditions of release to reasonably assure Nielsen's presence for further proceedings, the court finds there are no conditions which would reasonably assure the safety of the community if he were released. His criminal record is substantial and the circumstances of the present violation indicates Nielsen has a substance/alcohol abuse problem and has a violent behavioral problem. Nieslen should be detained pending a dispositional hearing before Judge Smith Camp.

¹ Due to a clerical error, defense counsel was referred to as Patrick W. McDermott. Defense counsel is John D. McDermott.

IT IS ORDERED:

1. A final dispositional hearing will be held before Judge Laurie Smith Camp in Courtroom No. 2, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 4:00 p.m. on February 11, 2008.** Defendant must be present in person.
2. Defendant Stacey W. Nieslen is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;
3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and
4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 27th day of December, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge